

PRETRIAL CIVIL LITIGATION

Law 245.1

Fall 2013

UC Berkeley School of Law

Mondays 6:25 p.m. to 9:05 p.m.

Boalt Room 10

Instructors: Steven Saltiel and Sara Winslow

Office Hours: by appointment

Phone: (415) 436-6996 (Saltiel); (415) 436-6925 (Winslow)

Email: ssaltiel@law.berkeley.edu; sarawinslow@berkeley.edu

Course Description: This course is designed to acquaint students with pretrial litigation practice in civil cases. While the case file used is a tort litigation, the skills taught are applicable in any civil case setting. This is a skills course, in that it focuses on the practical application of the civil rules, decision making and judgment. We will cover pleadings; written discovery; preparing for, taking and defending depositions (including mock deposition practice); making and opposing motions; and oral argument of motions. Strategies, settlement considerations, client relations, ethics and other topics relevant to typical litigation practice are also discussed.

Reading: The required text for the course will be PRETRIAL, referred to in this syllabus as “Text.” “FRCP” refers to the Federal Rules of Civil Procedure. “Case File” refers to the case materials posted on bspace. Additional materials may be posted to bspace or handed out in class. We will **not** be using the CD that comes with the PRETRIAL textbook.

PRETRIAL by Thomas A. Mauet

Published by Wolters Kluwer Law & Business

8th Edition (2012)

ISBN: 9781454803034

Grading:

Classroom participation and exercises 25%

Written assignments 45% total:

Complaint or Answer: 5%

Written discovery requests 12.5%

Written discovery responses 12.5%

Discovery motion 15%

Final project 30% total:

Motion for summary judgment 20%

Oral argument 10%

Class 1: August 26, 2013

- Lecture: Course overview; overview of litigation process; client interviews; review of mock case.
- Reading: Text Chap. I; Chap.II pp. 19-37; Chap. IV pp. 85-97
Case File: *Summers v. Davola* Factual Summary; Entries 1, 1.2

[September 2 – Labor Day – no class]**Class 2: Date & Location TBA - Week of September 2**

- Exercise: Client interview.
- Lecture: Drafting initial pleadings; theory of the case; assignment of teams.
- Reading: Text Chap. V, pp. 119-159
Case File: Entries 4 - 39
FRCP 8-12

Class 3: September 9, 2013

- Exercise: Brainstorm legal theories
- Lecture: Investigating the facts, witness interviews.
- Reading: Text Chap. II, pp. 37-51
Case File Entries 62 – 66, 81, 85, 85.1

Assignment Due: Complaint (Plaintiffs only)**Class 4: September 16, 2013**

- Exercise: Witness interviews.
- Lecture: Case planning (initial disclosures, discovery plan, meeting and conferring on discovery plan and case schedule)
- Reading: Text Chap. IV, pp. 98-111; Chap. VI, p. 187-214
Case File Entries 14, 60
FRCP 26

Assignment Due: Answer (Defendants only)

Class 5: September 23, 2013

- Exercise: Rule 26 Conference (including e-discovery issues).
Lecture: Propounding and responding to discovery; handling discovery disputes, e-discovery.
Reading: Text Chap. VI, pp.219-270, 314-322
FRCP 26-37

Class 6: September 30, 2013

- Demonstration: Preparing a witness for deposition; taking deposition
Lecture: Depositions (law, purpose, who to depose, witness preparation, preparing to take a deposition, defending a deposition).
Reading: Text Chap. VI, pp. 271-309
FRCP 30, 37

Assignment Due: 10 discovery requests (four interrogatories, three requests for production of documents, and three requests for admissions)

Class 7: October 7, 2013

- Exercise: Deposition of Plaintiff
Assignment Due: Defendants' Discovery Responses/Plaintiffs' Motion to Compel

Class 8: October 14, 2013

- Exercise: Deposition of Defendant
Assignment Due: Plaintiffs' Discovery Responses/Defendants' Opposition to Motion to Compel

Class 9: October 21, 2013

- Lecture: Motion Practice & Dispositive Motions
Exercise: Brainstorming possible arguments for motions for summary judgment
Reading: Text Chap. VI, pp. 323-330; Chap. VII, pp. 335-343, 362-374
FRCP 56

Class 10: October 28, 2013

- Exercise: Hearings on motions to compel
Location of this class may change

Class 11: November 4, 2013

Exercise: Mediation

Assignment Due: Plaintiffs' Opposition to Summary Judgment

[November 11 – Veterans Day – no class]

Class 12: Date & Location TBA - Week of November 11, 2013

Lecture: Experts (law, when to use, disclosures, deposition); Alternative Dispute Resolution

Demonstration: Deposition of Expert

Reading: Text Chap.VI, pp. 209-210, pp. 215-18, pp. 289-91;
Chap. VIII, pp. 394-410

Case File: Entries 40, 41, 46, 47

Assignment Due: Defendants' Motion for Summary Judgment

Class 13: November 18, 2013

Final: Hearings on Motions for Summary Judgment

This class will be held at the Federal Courthouse in San Francisco

Class 14: November 25, 2013

Lecture: Critique of summary judgment hearings, Pretrial Conference, motions in limine.